IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

WA.No. 1711 of 2007

(AGAINST THE JUDGEMENT IN WPC.12772/2007 Dated 22/06/2007)

APPELLANTS/RESPONDENTS:
---

1. THE CALICUT UNIVERSITY
   REPRESENTED BY ITS REGISTRAR,
   THENHIPALAM, CALICUT

2. THE VICE CHANCELLOR,
   UNIVERSITY OF CALICUT
   CALICUT

BY ADV. SRI.P.C.SASIDHARAN, SC, CALICUT UTY.

RESPONDENT/PETITIONER:

FATHIMA MEMORIAL EDUCATONAL TRUST
(ORIENTED COLLEGE OF TEACHER EDUCATION)
POONATH.P.O.,
NADUVANNOOR VIA.
CALICUT DISTRICT,
REPRESENTED BY ITS SECRETARY SHOUKATHALI.

BY ADV. SRI.GEORGE POONTHOTTAM

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

W.A. No. 1711 OF 2007

.....

Dated this the 26th September , 2007

J U D G M E N T

H.L. Dattu, C.J.:

The Calicut University, represented by its Registrar and Vice Chancellor of the University are the appellants in this appeal. They are calling in question the correctness or otherwise of the judgment rendered by the learned single Judge in W.P.(C) No. 12772 of 2007 dated 22nd June, 2007.

2. The petitioner/respondent herein is an educational trust. It has obtained recognition from the N.C.T.E. (National Council for Teacher Education) on 23.10.12006 to commence a B.Ed college within the territorial jurisdiction of the Calicut University (hereinafter referred to as University). After obtaining such recognition from the N.C.T.E., they had approached the University for affiliation of the college with the University. Since the request had not been considered by the University within a reasonable time, they had approached this court with Writ Petition (C) No. 28451 of 2006. The said Writ Petition came to be dismissed by Ext.P9 order dated 16.11.2006.

3. After the dismissal of the aforesaid Writ Petition, the college had once again approached this court in Writ Appeal No. 2186 of 2006. The said Writ Appeal had been disposed of by Ext.P10 order dated 30.11.2006.

4. Since the University did not comply with the orders and directions issued by this court while disposing of W.A.No.2186 of 2006, the petitioner/respondent herein was constrained to file a Contempt Case before this Court . Since the learned counsel for the University made a statement that the orders passed by the University on 23.12.2006 would be withdrawn, the court was pleased to dispose of the Contempt Case as having become

infructuous.

5. In spite of the disposal of the Writ Appeal and the Contempt Petition, since the Syndicate did not take any decision in the matter (which is in dispute between the parties) the petitioner/respondent herein was before this court in W.P.(C) No.12772 of 2007. While disposing of Writ Petition No.12772 of 2007, the learned single Judge has directed the University to grant permanent affiliation to the petitioner's college and has also imposed cost on the University for various reasons.

6. Aggrieved by the order passed by the learned single Judge, the University is before us in this appeal. The matter was heard at length.

7. Since we were aware of the fact that the counsel appearing for the parties to the lis are not only fair to the court but also fair to the other side, we made certain suggestions and those suggestions are immediately accepted by both the learned counsel. The suggestions are, that the University will grant provisional affiliation to the petitioner's college; the University will appoint a Committee to inspect the college as required under the statute of the University and then prepare a report and if there are any omissions, it shall point out the same to the petitioner's college and the petitioner's college would cure those omissions or defects and thereafter the Committee appointed by the University will make a further inspection and then submit a report to the Vice Chancellor of the University to take a decision in the matter of granting permanent affiliation.

8. In view of the aforesaid understanding, we do not intend to go into the merits or de-merits of the contentions canvassed by the learned counsel

appearing for the parties to the lis. Accordingly, we pass the following order:

O R D E R

i) The Writ Appeal is disposed of.

ii) The University shall grant provisional affiliation to the petitioner's college within 15 days from today.

iii) The Vice Chancellor of the University will appoint a Committee within15 days from today, with a specific direction to inspect the petitioner's college and, then submit a report to the University within 15 days from the date of constitution of the Committee and a copy of the same to the petitioner's college. If, for any reason, the Committee points out any omissions or defects in the functioning and establishment of the petitioner's college, it will inform the same to the petitioner's college with a specific direction to cure those defects within 30 days from the date of receipt of the report. After curing the omissions pointed out by the Committee the petitioner's college would intimate the same to the Vice Chancellor of the University with a request to direct the Committee to make an inspection of the college to ascertain whether the defects pointed out by the Committee has been cured or not. The Vice Chancellor, within 15 days after receipt of such a request will direct the Committee to make further inspection and submit a report within 15 days thereafter. If the Committee is satisfied, then it will submit a final report within 15 days thereafter to the Vice Chancellor of the University, who will place the matter before the Syndicate for final orders/for granting of permanent affiliation to the petitioner's college .

iv) The orders passed by the learned single Judge while disposing

of Writ Petition No. 12772 of 2007 shall not be treated as a precedent in any other case.

v) The observations made by the learned single Judge in the paragraph 14 of the impugned judgment is expunged, which includes the cost also.

vi) The contentions canvassed by the learned counsel for the parties to the lis with regard to the point as to whether the recognition granted by the N.C.T.E. would prohibit the University from making inspection or from passing any other order contrary to the recognition granted by the N.C.T.E., will be decided in an appropriate case.

vii) We only hope and trust, that, the Syndicate of the University will act very fairly, if it is possible and permissible to grant permanent affiliation to the petitioner's college

viii) I.A.No.742 of 2007 is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk/DK.